



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

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Case #: ZBA #2012-52
Site: 22 Franklin Street
Date of Decision: August 1, 2012
Decision: *Petition Denied*
Date Filed with City Clerk: August 9, 2012

ZBA DECISION

Applicant Name:	Mistry Associates, Inc./Nalin Mistry
Applicant Address:	314 Main Street, Reading, MA 01867
Property Owner Name:	Peter Santana & Venilde Santana
Property Owner Address:	22 Franklin Street, Somerville, MA 02145
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant Mistry Associates, Inc., and Owners Peter and Venilde Santana, seek a Special Permit under SZO §4.4.1 to alter a nonconforming single-family dwelling including the addition of a new basement entrance and modifications to window openings as part of an as-of-right addition of one dwelling unit to the property.
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<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 23, 2012
<u>Date(s) of Public Hearing:</u>	7/11 & 8/1/12
<u>Date of Decision:</u>	August 1, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2012-52 was opened before the Zoning Board of Appeals at Somerville City Hall on July 11, 2012. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The Applicant proposes to alter this single-family dwelling by creating a new by-right unit in the basement which would include a new basement entry and modifications to basement window openings. The new unit, to be approximately 1500 square feet, would have one bedroom located near the front of the unit and a combination kitchen/dining room would be located at the rear of the unit. The bedroom would be 13 feet long and 22 feet wide. The unit will also have one bathroom, a laundry room, and a living room. The current floor area ratio (FAR) is .60 and, upon the addition of one dwelling unit, the FAR will increase to .84.

The new unit will be accessible through a new entry, which is to be located below grade on the right side of the front façade. This new entry includes a stairwell that is 7'-7" in length with 42" high railings on either side and is consistent in length to the existing porch stair located on the left side of the front façade. The new stairwell will be more than 8 feet in height and lead to an open hallway with access to the living room and bedroom, through sliding glass doors. Short posts, consistent with those of the existing porch, will support the porch above and enable the hallway to remain open to access natural light and fresh air.

There are two basement windows located on the left side or North façade and one window is located on the right side or South façade. All windows are currently 1'-6" long by 3 feet wide. The left side windows would become 4'-5" in length and retain the same 3 foot width while the right side window would become 3 feet in length and would also retain the same width.

A site plan has been devised that limits the visibility of the new entrance from the sidewalk or street and includes a path between the proposed new basement entry and the existing porch stair. A three foot wide path will link the single-family dwelling with the proposed new basement unit and evergreen shrubs will be installed between this proposed path and the Franklin Street sidewalk to diminish visibility of the new entry and railings. The evergreens, upon maturity, will be a minimum of 4 feet tall and the existing chain link fence that extends across the front façade and a portion of the left side of the parcel will be permanently removed and replaced with new three foot high wrought iron fencing.

Parking for the proposed two-family dwelling has been determined to require one additional parking stall and this stall has been configured within the existing driveway. Two stalls are currently located near the rear of the property, parallel to the wood deck on the right side façade. The additional parking space for the basement unit has been positioned closer to the street with the stall parallel to the front porch. This space will not to extend beyond the edge of the existing porch.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.
2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

In considering a Special Permit under §4.4 of the SZO, the Board finds that the alterations proposed would be substantially more detrimental to the neighborhood than the existing structure. The addition of a door and stairs under the porch is odd and negatively impacts the streetscape and neighborhood. The site plan including landscaping does not sufficiently hide this entry.



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3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The proposal is not consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.

The proposal is not consistent with the purpose of the Residence B district, §6.1.2, which is, "[t]o establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."

The proposed window alterations and new basement entry, for the new by-right dwelling unit, are not designed to be compatible with the built and unbuilt surrounding area. The entry as proposed is uncharacteristic of a typical 2 ½ story house in Somerville. The design for the new entry will negatively impact the streetscape and neighborhood.



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DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie with Danielle Evans recused. Upon making the above findings, Susan Fontano made a motion to deny the request for a Special Permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **DENY** the request.



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Josh Safdie (Alt.)

Attest, by the Administrative Assistant:

Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

